



SURFACE TRANSPORTATION BOARD

[Docket No. FD 36622]

Evansville Western Railway, Inc.—Temporary Trackage Rights Exemption—Illinois Central Railroad Company

Evansville Western Railway, Inc. (EVWR), a Class II railroad, has filed a verified notice of exemption under 49 CFR 1180.2(d)(8) for the acquisition of temporary trackage rights, for overhead operations, over approximately 11.7 miles of rail line owned by Illinois Central Railroad Company (CN) between Sugar Camp, Ill., at milepost 61.9, and Dial, Ill., at milepost 73.6, pursuant to the terms of a written temporary trackage rights agreement dated May 23, 2022 (Agreement).¹

EVWR states that the purpose of the temporary trackage rights is to allow it to load unit coal trains at Pond Creek Mine near Dial until EVWR's service at the Sugar Camp Mine can be restored following closure due to a mine fire and the unrelated, but necessary, relocation of long wall mining equipment.² According to EVWR, the temporary trackage rights will expire and terminate on the earlier of: (i) July 15, 2022, or (ii) the re-opening of the Sugar Camp Mine "with sufficient production to fulfill the required requested loadings of unit trains of coal."

EVWR concurrently filed a petition for waiver of the 30-day period under 49 CFR 1180.4(g)(1) to allow the proposed temporary trackage rights to become

¹ A redacted copy of the Agreement is attached to the verified notice. An unredacted copy has been filed under seal along with a motion for protective order pursuant to 49 CFR 1104.14. That motion is addressed in a separate decision.

² EVWR states that the Sugar Camp Mine consists of two separate mines, M Class and Viking. According to EVWR, M Class was forced to shut down due to a fire at the mine and Viking had to close to accommodate the relocation of long wall mining equipment to another location at the mine.

effective immediately. By decision served June 8, 2022, the Board granted EVWR's request. As a result, this exemption is now effective.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption.

All pleadings, referring to Docket No. FD 36622, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on EVWR's representative, William A. Mullins, Baker & Miller PLLC, Suite 300, 2401 Pennsylvania Ave., N.W., Washington, DC 20037.

According to EVWR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting under 49 CFR 1105.8(b)(3).

Board decisions and notices are available at www.stb.gov.

Decided: June 8, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

